

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 19 CR 277
v.)	
)	Judge Edmond E. Chang
CONCEPCION MALINEK)	

**MOTION OF THE UNITED STATES FOR
ENTRY OF FINAL ORDER OF FORFEITURE**

The United States of America, through JOHN R. LAUSCH, JR., United States Attorney for the Northern District of Illinois, moves for entry of a final order of forfeiture as to specific property pursuant to the provisions of Title 18, United States Code, Sections 1594(d)(1) and (d)(2) and Federal Rules of Criminal Procedure 32.2, and in support thereof submits the following:

1. On October 2, 2019, a superseding indictment was returned charging CONCEPCION MALINEK, in Counts One through Ten with knowingly providing and obtaining the labor and services of a person, by means of: (a) serious harm and threats of serious harm to that person or another person; (b) abuse and threatened abuse of the law and legal process; and (c) a scheme, plan, and pattern intended to cause the person to believe that, if that person did not perform such labor and services, that person or another person would suffer serious harm, in violation of 18 U.S.C. §§ 1589(a)(2), (a)(3) and (a)(4). The superseding indictment sought forfeiture to the United States of certain property pursuant to the provisions of 18 U.S.C. §§ 1594(d)(1) and (d)(2). On July 15, 2020, a bill of particulars was filed seeking forfeiture of certain property pursuant to the provisions of 18 U.S.C. §§ 1594(d)(1) and (d)(2).

2. The superseding indictment and bill of particulars sought forfeiture to the United States of specific property, namely:

(a) funds in the amount of \$3,549 in United States currency; and

- (b) the property located at 3110 South 53rd Court, Cicero, Illinois, 60804 (“the Cicero property”), and legally described as:

THE SOUTH 2/3 OF LOT 5 AND THE NORTH 2/3 OF LOT 6 IN BLOCK 4 IN OSBORNE’S ADDITION TO HAWTHORNE, BEING A SUBDIVISION OF LOTS 1 AND 2 IN BLADWIN’S SUBDIVISION OF THE NORTHWEST ¼ OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Number: 16-33-104-051-0000,

pursuant to the provisions of 18 U.S.C. §§ 1594(d)(1) and (d)(2).

3. On July 31, 2020, pursuant to Fed. R. Crim. P. 11, defendant CONCEPCION MALINEK entered a voluntary plea of guilty to Count Ten of the superseding indictment, thereby making the property named in the superseding indictment and bill of particulars subject to forfeiture pursuant to 18 U.S.C. §§ 1594(d)(1) and (d)(2), which states in part:

- (d) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States –

(1) such person’s interest in any property, real or personal, that was involved in, used, or intended to be used to commit or to facilitate the commission of such violation, and any property traceable to such property; and

(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation, or any property traceable to such property.

4. Because of the defendant’s conviction of the above violation, the foregoing property is subject to forfeiture pursuant to the provisions of 18 U.S.C. §§ 1594(d)(1) and (d)(2).

5. On April 22, 2021, this Court entered a preliminary order of forfeiture forfeiting all right, title, and interest of defendant CONCEPCION MALINEK in the property listed below for disposition according to law:

- (a) funds in the amount of \$3,549 in United States currency; and
- (b) the property located at 3110 South 53rd Court, Cicero, Illinois, 60804 (“the Cicero property”), and legally described as:

THE SOUTH 2/3 OF LOT 5 AND THE NORTH 2/3 OF LOT 6 IN BLOCK 4 IN OSBORNE’S ADDITION TO HAWTHORNE, BEING A SUBDIVISION OF LOTS 1 AND 2 IN BLADWIN’S SUBDIVISION OF THE NORTHWEST ¼ OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Further, the United States Marshals Service was directed to seize and take custody of the property. Additionally, the United States was ordered to publish notice of its intention to forfeit the property according to law.

6. Pursuant to the provisions of 21 U.S.C. § 853(n)(1), as incorporated by 28 U.S.C. § 2461(c), beginning on May 1, 2021 and continuing for at least 30 consecutive days, notice of the criminal forfeiture was posted on an official government internet site. A copy of the certificate of publication is attached as Exhibit A.

7. The preliminary order of forfeiture was served pursuant to the district court’s ECF system as to ECF filers. Notice was also duly served upon the Cook County Treasurer’s Office and Jeffrey A. Malinek. The certificate of service is attached as Exhibit B. Pursuant to the provisions of 21 U.S.C. § 853(n)(1), as incorporated by 28 U.S.C. § 2461(c), no other parties are known to have an interest in the property and accordingly, no other parties were personally served with a copy of the notice of forfeiture and preliminary order of forfeiture.

8. In particular, on May 4, 2021, the United States provided direct written notice to Jeffrey A. Malinek of the forfeiture action and the government’s intent to dispose of Cicero property. A special warranty deed indicates that Concepcion Malinek and Jeffrey A. Malinek are

husband and wife, as tenants by the entirety of the Cicero property, dated May 20, 2008 and recorded with the Cook County Recorder of Deeds on July 23, 2008. The government sent notice by certified mail, return receipt requested. A copy of the government's written notice to Jeffrey A. Malinek is attached hereto as Exhibit C. Hereafter, the government received by mail a signature-stamped return receipt card. A copy of the return receipt card is attached hereto as Exhibit D.

9. To date, no petition has been filed requesting a hearing to adjudicate any interest as to the funds in the amount of \$3,549, or to the Cicero property, and the time in which to file a request for a hearing has expired.

10. Under 21 U.S.C. § 853(n)(2), as incorporated by 31 U.S.C. § 5317(c), Jeffrey A. Malinek was required to file its petition for a hearing to adjudicate the validity of its interest in the Cicero property within 30 days of either the final publication of the government's notice or Jeffrey A. Malinek's receipt of the government's notice, whichever occurred earlier. 30 days from the end of publication was June 30, 2021; 30 days from receipt of notice was June 5, 2021.

11. Pursuant to 21 U.S.C. § 853(i)(1), as incorporated by 28 U.S.C. § 2461(c), the Attorney General is authorized to:

grant petitions for mitigation or remission of forfeiture, *restore forfeited property to victims of a violation of this subchapter*, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section [emphasis added].

Accordingly, upon entry of the final order of forfeiture, matters relating to the victims will then be addressed.

WHEREFORE, pursuant to the provisions of 18 U.S.C. §§ 1594(d)(1) and (d)(2).and Fed. R. Crim. P. 32.2, the United States requests that this Court enter a final order of forfeiture as to \$3,549 in U.S. currency and the Cicero property, in accordance with the draft final order of forfeiture which is submitted herewith.

Respectfully submitted,

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